ANDOVER CONSERVATION COMMISSION MEETING MINUTES JANUARY 24, 2013

Town of Andover 36 Bartlet Street 3rd Floor Conference Room 7:45pm

CONSERVATION COMMISSION MEMBERS IN ATTENDANCE:

Vice Chairman Michael Walsh, Commissioner Fran Fink, Commissioner Alix Driscoll, Commissioner Jon Honea, Commissioner Floyd Greenwood (arrived at 8:22pm) and Commissioner Kevin Porter. Absent was Chairman Donald Cooper. Staff Members present were Robert Douglas, Director of Conservation and Linda Cleary, Conservation Agent.

SCHEDULED ITEMS:

100-110 Corbett Street

Staff Recommendation: Continue to February 5, 2013

Continued Public Hearing on a Notice of Intent filed under the Massachusetts Wetland Protection Act and/or the Andover Wetlands Protection By-Law, for the proposed project to expand the cemetery and provide more plots, including a wetland crossing, regrading, BVW restoration and building a driveway.

The Applicant requested a continuance to February 5, 2013 to provide stormwater calculations.

Vice Chairman Walsh asked for a Motion. Commissioner Porter made a Motion to continue to February 5, 2013, it was seconded by Commissioner Honea and unanimously approved.

ACTION ITEMS:

Expired Applications: 209 High Street – DEP#090-1030 107 Greenwood Street – DA 2008-006 4 Bancroft Road – DEP#090-1000 180 Abbott Street – DEP#090-1049 Vote that the previous applications have expired and the prerequisite information has not been received in more than a 2 year period.

Commissioner Honea made a Motion to find the Applications expired, it was seconded by Commissioner Porter and unanimously approved.

CONSENT AGENDA:

20 New England Business Center Drive

Issuance of a Certificate of Compliance.

Minutes

Approval of Minutes from January 5, 2013 Meeting. Tabled to February 5, 2013 Meeting.

23, 25, 27 & 29 Muirfield Circle

Legends – Phase I (Building 4) Amended

Request for Partial Certificate of Compliance.

New England Power Company Right-of-Way

Issuance of a Certificate of Compliance.

Commissioner Porter made a Motion to Approve the Consent Agenda, it was seconded by Commissioner Driscoll and unanimously approved.

INFORMATIONAL ITEMS THAT MAY REQUIRE A VOTE:

278R High Plain Road

The Appraisal is not complete. The Applicant has submitted the Warrant Article for Town Meeting.

Commissioner Driscoll made a Motion to continue to February 5, 2013, it was seconded by Commissioner Honea and unanimously approved.

SunGen Solar Project

Present in Interest: Susan Stodt

Update regarding conveyance of Lot B South Street. Town Independent Reviewer is reviewing Phase I report and will do a site visit next week. All members of the Commission are welcome to attend the site visit.

MACC Annual Conference

Registration Form due by January 29, 2013 for submittal for payment. Please provide Lynn with your registration forms no later than January 29, 2013.

221 Highland Road

Vote to rescind 3rd Enforcement Order. The stockpiling of wood in the A-Series Wetland has been removed and is now in compliance.

Commissioner Honea made a Motion to rescind the 3rd Enforcement Order, it was seconded by Commissioner Driscoll and unanimously approved.

15 Geneva Road

Present in Interest: Beth Arnold

Update on Enforcement Order.

An Enforcement Order was issued to cease and desist. A new 35 foot round patio had been installed on the point of the peninsula and planting of shrubs and mulch without an application. The Commission was provided with a copy of the order issued by DEP in 1999 for removal of a sports court. It is clear in this order that there should be no new construction on the peninsula and it should be kept as a grassed area. Staff also provided photos of the patio area for the Commission to review.

Beth Arnold explained to the Commission the work that was done. She also stated that the ESS Restoration Plan dated July 7, 1999 laid out the work to be done upon removal of the sport court, but did not address erosion of the whole peninsula.

Commissioner Honea agreed that the problem is now larger than the existing restoration plan addresses.

Commission Fink provided an alternative to slope stabilization which included regrading of the slope to a gentler slope with lots of topsoil and then planting of shrubs that thrive in that habitat that will hold the soil in place. She suggested the need for an effective design to include shoreline restoration using bioengineering.

Commissioner Porter stated that any homeowner living on a body of water needs to accept that erosion of the shoreline will naturally occur.

Staff requested a restoration plan be submitted for review no later than March 21, 2013 (2 months), let the Enforcement Order stand and to be lifted upon completion of the restoration. A Notice of Intent will need to be filed for the work to be done as part of the restoration, which will include removal of the fieldstone patio.

24R Pomeroy Road

Present in Interest: Frank MacMillan

Update on Enforcement Order.

Staff provided pictures of the stone wall to the Commission for review. There was no permit issued for the construction of the wall which has been in the pond for the past 2 years. The land below the water line belongs to the State, not the Town of Andover.

Frank MacMillan informed the Commission that the wall was in existence when he purchased the property over 10 years ago. The pond level was lowered about 3 feet which allowed him to rebuild the wall using rocks surrounding the existing wall. He contacted his Attorney who told him he could maintain his property. He rebuilt the wall to prevent further erosion to his shoreline.

Commissioner Driscoll would like confirmation of the existing wall. It is not visible from the shore as it is under water. The State would have needed to grant permission as well as the Conservation Commission.

Commissioner Honea expressed his concern that if the Commission allows the wall to remain, this will set a precedent for other homeowners who have built walls within ponds.

Commissioner Fink questioned how the stone wall could prevent erosion on the bank. There are other ways to stabilize the shoreline, like vegetation. This wall is fill in Land Under Water and within a flood plain. Commissioner Fink suggested a site visit to try to determine where the existing wall is located.

Vice Chairman Walsh asked if the rebuilding would be considered maintenance and if there are any regulations regarding rebuilding an existing wall. He also inquired as to mitigation in this instance. Staff to check regulations.

The Commission will conduct a site visit and Mr. MacMillan will try to obtain evidence of the existing wall to provide to the Commission.

The next meeting will be held at 7:45pm on February 5, 2013.

The meeting was adjourned at 8:40pm by Motion of Commissioner Honea, seconded by Commissioner Driscoll and unanimously approved.

Respectfully submitted by,

Lynn Viselli, Recording Secretary